

Department of State

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abroad and was a result of the individual's relationship with the Government.

(3) Declarations of hostile action in domestic situations shall be made by the Secretary of State in consultation with the Attorney General of the United States and the head of the employing agency or agencies.

(b) The Secretary of State for actions abroad, or Agency Head for domestic actions, upon his or her own initiative, or upon application under § 192.2 shall determine which individuals in captive or missing status as so declared shall be considered captives eligible for benefits under the Act. The Secretary or Agency Head shall also determine who is eligible under the Act for benefits as a member of a family or household of a captive. The determination of the Secretary or Agency Head shall be final for purposes of determining captive status and cash payments, and not subject to judicial review, but any interested person may request reconsideration on the basis of information not considered at the time of original determination. The criteria for determination are set forth in sections 5569 and 5570 of title 5 of U.S.C., and in these regulations.

§ 192.2 Application for determination of eligibility.

(a) Any person who believes that that person or other persons known to that person are either captives as defined in 5 U.S.C. 5569(a)(1), individuals who have suffered disability or death caused by hostile action which was a result of the individual's relationship with the U.S. Government, members of the family or household of such individuals as defined in § 192.3(a)(1), or a child eligible for benefits under subchapter D, may apply for benefits under this subchapter for that person, or on behalf of others entitled thereto.

(b) The application in connection with hostile action abroad shall be in writing, shall contain all identifying and other pertinent data available to the person applying about the person or persons claimed to be eligible, and shall be addressed to the Director General of the Foreign Service, Department of State, Washington, DC 20520. Applications may be filed within 60

days after the latest of: a declaration under § 192.1(a), the hostile action, or release from captivity. Later filing may be considered when in the opinion of the Secretary of State there is good cause for the late filing. Applications in connection with hostile action in domestic situations shall conform to these same requirements and be filed with the Agency Head.

§ 192.3 Definitions.

When used in this subchapter, unless otherwise specified, the terms—

(a) *Secretary of State* includes any person to whom the Secretary of State has delegated the responsibilities of carrying out this subpart.

(b) *Family member* means a dependent of a captive and any individual other than a dependent who is a member of such person's family or household and shall include the following: (1) A spouse, (2) an unmarried dependent child including a step-child or adopted child under 21 years of age, (3) a person designated in official records or determined by the agency head or designee thereof to be dependent, and (4) other persons such as parents, non-dependent children, parents-in-law, persons who stand in the place of a spouse or parents, or other members of the family or household of a captive or employee, as determined by the Agency head concerned.

(c) *Agency head* means the head of an Executive Agency of the U.S. Federal Government employing an individual affected by hostile action as covered by these regulations. The Secretary of State is the agency head for actions abroad with respect to any such individual not employed by an agency.

(d) *Captive* means any individual in a captive status commencing while such individual is in the Civil Service or a citizen, national or resident alien of the United States rendering personal service to the United States similar to the service of an individual in the Civil Service (other than as a member of the uniformed services).

(e) *Captive status* means a missing status which, as determined under § 192.1, arises because of a hostile action and is a result of the individual's relationship with the Government.

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(f) *Principal* means the person whose captivity, death or disability forms the basis for benefits for that individual or for a family member under this subchapter.

(g) *Individual rendering personal services to the United States similar to the service of an individual in the Civil Service* includes contract employees and other individuals fitting that description.

(h) *Pay and allowances* has the meaning set forth in 5 U.S.C. 5561(6):

- (1) Basic pay;
 - (2) Special pay;
 - (3) Incentive pay;
 - (4) Basic allowances for quarters;
 - (5) Basic allowance for subsistence;
- and

(6) Station per diem allowances for not more than 90 days.

(i) *Child* means a dependent as defined in paragraph (b)(2) of this section.

§ 192.4 Notification of eligible persons.

The Director General of the Foreign Service for the Department of State, or other Agency Head in domestic situations, shall be responsible for notifying each individual determined to be eligible for benefits under the Act, or if that person is not available, a representative or family member of the eligible individual.

§ 192.5 Relationships among agencies.

(a) To assist in ensuring that eligible persons receive compensation, each Agency Head shall notify the Director General of the Foreign Service of the Department of State of any incident which he or she believes may be appropriately declared a hostile action under § 192.1.

(b) The Director General of the Foreign Service for the Department of State shall promptly inform the head of any agency whenever an employee of that agency, or Family Member of such employee, is determined to be eligible for benefits under this subchapter in connection with hostile action.

(c) In accordance with inter-agency agreements between the Department of State and relevant agencies—

(1) The Department of Veterans Affairs will periodically bill the Department of State for expenses it pays for each eligible person under subpart E of

this subchapter plus the administrative costs of carrying out its responsibilities under this part.

(2) The Department of State will, on a periodic basis, determine the cost for services and benefits it provides to all eligible persons under this subchapter, and bill each agency for the medical service costs (in connection with hostile action abroad) and educational benefits attributable to Principals and Family Members, plus a proportionate share of related administrative expenses.

Subpart B—Payment of Salary and Other Benefits for Captive Situations

§ 192.10 Eligibility for benefits.

A person designated as a captive under subpart A of this subchapter shall be eligible for benefits under this subpart.

§ 192.11 Applicable benefits.

(a) Captives are entitled to receive or have credited to their account, for the period in captive status, the same pay and allowances to which they were entitled at the beginning of that period or to which they may have become entitled thereafter.

(b) A person designated as a captive (or a family member of a principal) under subpart A of this subchapter whose captivity commenced on or after November 4, 1979, is also entitled to receive a cash payment from the captive's employing agency, for each day held captive, in an amount equal to but not less than one-half of the amount of the world-wide average per diem rate established under 5 U.S.C. 5702.

§ 192.12 Administration of benefits.

(a) The amount deducted from the pay and allowances of captives must be recorded in the individual accounts of the agency concerned. A Treasury designated account, set up on the books of the agency concerned, may be utilized by the head of an agency to report the net amount of pay, allowances and interest credited to captives pursuant to 5 U.S.C. 5569(b). Interest payments under this section shall be paid out of